

Section 1791a, Pub. L. 97-300, title V, §502, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3248; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1096, related to payments to States.

A prior section 502 of Pub. L. 97-300, which amended sections 632 and 633 of Title 42, The Public Health and Welfare, was renumbered section 602 of Pub. L. 97-300.

Section 1791b, Pub. L. 97-300, title V, §503, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3249; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1096, related to amount of incentive bonus.

A prior section 503 of Pub. L. 97-300, which amended section 602 of Title 42, The Public Health and Welfare, was renumbered section 603 of Pub. L. 97-300.

Section 1791c, Pub. L. 97-300, title V, §504, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3249; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1097, related to use of incentive bonus funds.

A prior section 504 of Pub. L. 97-300 was renumbered section 604 and was classified to section 1504 of this title prior to repeal by Pub. L. 105-220.

Section 1791d, Pub. L. 97-300, title V, §505, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3250; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1097, related to notices and applications.

Another section 505 of title VI of Pub. L. 97-300, as added Pub. L. 100-418, title VI, §6307(a), Aug. 23, 1988, 102 Stat. 1541, and amended, was renumbered section 605 of title VI of Pub. L. 97-300 by Pub. L. 102-367, title VII, §702(a)(20), Sept. 7, 1992, 106 Stat. 1113, and was classified to section 1505 of this title, prior to repeal by Pub. L. 105-220.

Section 1791e, Pub. L. 97-300, title V, §506, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3251; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1098; Pub. L. 104-193, title I, §110(n)(15), Aug. 22, 1996, 110 Stat. 2174, related to eligibility for incentive bonuses.

Section 1791f, Pub. L. 97-300, title V, §507, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3252; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1098, related to information and data collection.

Section 1791g, Pub. L. 97-300, title V, §508, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3252; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1099; Pub. L. 104-193, title I, §110(n)(16), Aug. 22, 1996, 110 Stat. 2175, related to evaluations and reports.

Section 1791h, Pub. L. 97-300, title V, §509, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3253; amended Pub. L. 102-367, title V, §501, Sept. 7, 1992, 106 Stat. 1099, related to implementing regulations.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2000, see section 199(c)(2)(B) of Pub. L. 105-220, set out as a note under section 1501 of this title.

§§ 1791i, 1791j. Omitted

CODIFICATION

Sections 1791i and 1791j of this title were omitted in the general revision of this subchapter by Pub. L. 102-367, title V, §501, title VII, §701(a), Sept. 7, 1992, 106 Stat. 1099, 1103, effective July 1, 1993.

Section 1791i, Pub. L. 97-300, title V, §510, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3253, related to awards to States for start-up costs for participation in the incentive bonus program.

Section 1791j, Pub. L. 97-300, title V, §511, as added Pub. L. 100-628, title VII, §712(a)(3), Nov. 7, 1988, 102 Stat. 3254, related to evaluation and performance standards for the incentive bonus program.

SUBCHAPTER VI—STATE HUMAN RESOURCE INVESTMENT COUNCIL

§§ 1792 to 1792b. Repealed. Pub. L. 105-220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059

Section 1792, Pub. L. 97-300, title VII, §701, as added Pub. L. 102-367, title VI, §601(a), Sept. 7, 1992, 106 Stat. 1099; amended Pub. L. 104-193, title I, §110(n)(17), Aug. 22, 1996, 110 Stat. 2175, related to establishment and functions of State human resource investment councils.

Section 1792a, Pub. L. 97-300, title VII, §702, as added Pub. L. 102-367, title VI, §601(a), Sept. 7, 1992, 106 Stat. 1101, related to composition of Councils.

Section 1792b, Pub. L. 97-300, title VII, §703, as added Pub. L. 102-367, title VI, §601(a), Sept. 7, 1992, 106 Stat. 1102, related to administration of Councils.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 2000, see section 199(c)(2)(B) of Pub. L. 105-220, set out as a note under section 1501 of this title.

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§ 1801. Congressional statement of purpose

It is the purpose of this chapter to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this chapter; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

(Pub. L. 97-470, § 2, Jan. 14, 1983, 96 Stat. 2584.)

EFFECTIVE DATE

Pub. L. 97-470, title V, § 524, Jan. 14, 1983, 96 Stat. 2600, provided in part that: "The provisions of this Act [enacting this chapter and repealing chapter 52 (§ 2041 et seq.) of Title 7, Agriculture] shall take effect ninety days from the date of enactment [Jan. 14, 1983]."

SHORT TITLE

Pub. L. 97-470, § 1, Jan. 14, 1983, 96 Stat. 2584, provided in part that this Act [enacting this chapter and repealing chapter 52 (§ 2041 et seq.) of Title 7, Agriculture] may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act".

§ 1802. Definitions

As used in this chapter—

(1) The term "agricultural association" means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(2) The term "agricultural employer" means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(3) The term "agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of title 26 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(4) The term "day-haul operation" means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day.

(5) The term "employ" has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act [29 U.S.C. 201 et seq.].

(6) The term "farm labor contracting activity" means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(7) The term "farm labor contractor" means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other

valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(8)(A) Except as provided in subparagraph (B), the term "migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term "migrant agricultural worker" does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8.

(9) The term "person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term "seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term "seasonal agricultural worker" does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 1101(a)(15)(H)(ii)(a) and 1184(c) of title 8.

(11) The term "Secretary" means the Secretary of Labor or the Secretary's authorized representative.

(12) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

(Pub. L. 97-470, § 3, Jan. 14, 1983, 96 Stat. 2584; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-603, title I, § 101(b)(1)(A), Nov. 6, 1986, 100 Stat. 3372.)

REFERENCES IN TEXT

That Act, referred to in par. (5), is act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, known as the Fair Labor Standards Act of 1938, which is classified generally to chapter 8 (§ 201 et seq.) of this title. For complete classification of this Act to the Code, see section 201 of this title and Tables.

AMENDMENTS

1986—Par. (3). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

Pars. (8)(B)(i), (10)(B)(iii). Pub. L. 99-603 substituted “1101(a)(15)(H)(ii)(a)” for “1101(a)(15)(H)(ii)”.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-603, title I, §101(b)(2), Nov. 6, 1986, 100 Stat. 3372, as amended by Pub. L. 100-525, §2(a)(2), Oct. 24, 1988, 102 Stat. 2610, provided that: “The amendments made by paragraph (1) [amending this section and sections 1813 and 1851 of this title and repealing section 1816 of this title] shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act [Nov. 6, 1986]; except that if the provisions of section 274A of the Immigration and Nationality Act [8 U.S.C. 1324a] are terminated as of a date under [former] subsection (I) of such section, then such amendments shall no longer apply as of such date.” [The provisions of section 1324a of Title 8, Aliens and Nationality, were not terminated under subsection (I) of section 1324a, and that subsection was repealed by Pub. L. 104-208.]

§ 1803. Applicability of chapter

(a) The following persons are not subject to this chapter:

(1) **FAMILY BUSINESS EXEMPTION.**—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) **SMALL BUSINESS EXEMPTION.**—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) **OTHER EXEMPTIONS.**—(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act [29 U.S.C. 141 et seq.]) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, desexing, or health service op-

eration provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.

(G)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other individuals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(H)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

(b) Subchapter I of this chapter does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

(Pub. L. 97-470, § 4, Jan. 14, 1983, 96 Stat. 2585.)

REFERENCES IN TEXT

That Act, referred to in subsec. (a)(3)(B), is act June 23, 1947, ch. 120, 61 Stat. 136, as amended, known as the Labor Management Relations Act, 1947, which is classified principally to chapter 7 (§141 et seq.) of this title. For complete classification of this Act to the Code, see section 141 of this title and Tables.

SUBCHAPTER I—FARM LABOR CONTRACTORS

§ 1811. Certificate of registration required

(a) **Persons engaged in any farm labor contracting activity**

No person shall engage in any farm labor contracting activity, unless such person has a certificate of registration from the Secretary specifying which farm labor contracting activities such person is authorized to perform.

(b) **Hire, employ, or use of any individual to perform farm labor contracting activities by farm labor contractor; liability of farm labor contractor for violations**

A farm labor contractor shall not hire, employ, or use any individual to perform farm

labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of the farm labor contractor employer, which authorizes the activity for which such individual is hired, employed, or used. The farm labor contractor shall be held responsible for violations of this chapter or any regulation under this chapter by any employee regardless of whether the employee possesses a certificate of registration based on the contractor's certificate of registration.

(c) Possession and exhibition of certificate

Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities a certificate of registration and, upon request, shall exhibit that certificate to all persons with whom they intend to deal as a farm labor contractor or farm labor contractor employee.

(d) Refusal or failure to produce certificate

The facilities and the services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), known as the Wagner-Peyser Act, shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a certificate of registration.

(Pub. L. 97-470, title I, § 101, Jan. 14, 1983, 96 Stat. 2587.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in subsec. (d), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 49 of this title and Tables.

§ 1812. Issuance of certificate of registration

The Secretary, after appropriate investigation and approval, shall issue a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application containing the following:

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 1841 of this title with respect to each such vehicle;

(3) a statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 1823 of this title with respect to each such facility or real property;

(4) a set of fingerprints of the applicant; and

(5) a declaration, subscribed and sworn to by the applicant, consenting to the designation

by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(Pub. L. 97-470, title I, § 102, Jan. 14, 1983, 96 Stat. 2587.)

§ 1813. Registration determinations

(a) Grounds for refusal to issue or renew, suspension, or revocation of certificate

In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) if the applicant or holder—

(1) has knowingly made any misrepresentation in the application for such certificate;

(2) is not the real party in interest in the application or certificate of registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(3) has failed to comply with this chapter or any regulation under this chapter;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this chapter or any regulation under this chapter or under the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.] or any regulation under such Act, or

(B) to comply with any final order issued by the Secretary as a result of a violation of this chapter or any regulation under this chapter or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act;

(5) has been convicted within the preceding five years—

(A) of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any farm labor contracting activities; or

(B) of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally; or

(6) has been found to have violated paragraph (1) or (2) of section 1324a(a) of title 8.

(b) Administrative review procedures applicable

(1) The person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked under subsection (a) of this section shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of the refusal, suspension, or revocation. In such

hearing, all issues shall be determined on the record pursuant to section 554 of title 5. If no hearing is requested as herein provided, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c) of this section.

(c) Judicial review procedures applicable

Any person against whom an order has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28.

(Pub. L. 97-470, title I, §103, Jan. 14, 1983, 96 Stat. 2588; Pub. L. 99-603, title I, §101(b)(1)(B), Nov. 6, 1986, 100 Stat. 3372.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in subsec. (a)(4), is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, §523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

AMENDMENTS

1986—Subsec. (a)(6). Pub. L. 99-603 added par. (6).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 applicable to employment, recruitment, referral, or utilization of services of an individual occurring on or after first day of seventh month beginning after Nov. 6, 1986, see section 101(b)(2) of Pub. L. 99-603, as amended, set out as a note under section 1802 of this title.

§ 1814. Transfer or assignment; expiration; renewal

(a) Transfer or assignment prohibited

A certificate of registration may not be transferred or assigned.

(b) Expiration; renewals

(1) Unless earlier suspended or revoked, a certificate shall expire twelve months from the date of issuance, except that (A) certificates issued under this chapter during the period beginning December 1, 1982, and ending November 30,

1983, may be issued for a period of up to twenty-four months for the purpose of an orderly transition to registration under this chapter, (B) a certificate may be temporarily extended by the filing of an application with the Secretary at least thirty days prior to its expiration date, and (C) the Secretary may renew a certificate for additional twelve-month periods or for periods in excess of twelve months but not in excess of twenty-four months.

(2) Eligibility for renewals for periods of more than twelve months shall be limited to farm labor contractors who have not been cited for a violation of this chapter, or any regulation under this chapter, or the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.], or any regulation under such Act, during the preceding five years.

(Pub. L. 97-470, title I, §104, Jan. 14, 1983, 96 Stat. 2589.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in subsec. (b)(2), is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, §523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

§ 1815. Notice of address change; amendment of certificate of registration

During the period for which the certificate of registration is in effect, each farm labor contractor shall—

(1) provide to the Secretary within thirty days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the certificate of registration whenever the farm labor contractor intends to—

(A) engage in another farm labor contracting activity,

(B) use, or cause to be used, another vehicle than that covered by the certificate to transport any migrant or seasonal agricultural worker, or

(C) use, or cause to be used, another real property or facility to house any migrant agricultural worker than that covered by the certificate.

(Pub. L. 97-470, title I, §105, Jan. 14, 1983, 96 Stat. 2589.)

§ 1816. Repealed. Pub. L. 99-603, title I, § 101(b)(1)(C), Nov. 6, 1986, 100 Stat. 3372

Section, Pub. L. 97-470, title I, §106, Jan. 14, 1983, 96 Stat. 2589, prohibited employment of illegal aliens.

EFFECTIVE DATE OF REPEAL

Repeal applicable to employment, recruitment, referral, or utilization of services of an individual occurring on or after first day of seventh month beginning after Nov. 6, 1986, see section 101(b)(2) of Pub. L. 99-603, as amended, set out as an Effective Date of 1986 Amendment note under section 1802 of this title.

SUBCHAPTER II—MIGRANT AGRICULTURAL
WORKER PROTECTIONS

§ 1821. Information and recordkeeping requirements

(a) Written disclosure requirements imposed upon recruiters

Each farm labor contractor, agricultural employer, and agricultural association which recruits any migrant agricultural worker shall ascertain and disclose in writing to each such worker who is recruited for employment the following information at the time of the worker's recruitment:

- (1) the place of employment;
- (2) the wage rates to be paid;
- (3) the crops and kinds of activities on which the worker may be employed;
- (4) the period of employment;
- (5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them;
- (6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment;
- (7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers; and
- (8) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of paragraph (8) for a migrant agricultural worker may be met if such worker is given a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed. Such worker shall be given such disclosure regarding workers' compensation at the time of recruitment or if sufficient information is unavailable at that time, at the earliest practicable time but in no event later than the commencement of work.

(b) Posting requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this chapter, including the right of a migrant agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a) of this section. Such employer shall provide upon request, a written statement of the information described in subsection (a) of this section.

(c) Posting or notice requirements imposed upon housing providers

Each farm labor contractor, agricultural employer, and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place or present to such worker a statement of the terms and conditions, if any, of occupancy of such housing.

(d) Recordkeeping and information requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall—

- (1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

- (A) the basis on which wages are paid;
- (B) the number of piecework units earned, if paid on a piecework basis;
- (C) the number of hours worked;
- (D) the total pay period earnings;
- (E) the specific sums withheld and the purpose of each sum withheld; and
- (F) the net pay; and

- (2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(e) Furnishing of records by farm labor contractor; maintenance of records by recipient

Each farm labor contractor shall provide to any other farm labor contractor, and to any agricultural employer and agricultural association to which such farm labor contractor has furnished migrant agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (d)(1) of this section. The recipient of such records shall keep them for a period of three years from the end of the period of employment.

(f) Prohibition on knowingly providing false or misleading information to workers

No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any migrant agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), (c), or (d) of this section.

(g) Form and language requirements

The information required to be disclosed by subsections (a) through (c) of this section to migrant agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to migrant agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

(Pub. L. 97-470, title II, §201, Jan. 14, 1983, 96 Stat. 2590; Pub. L. 104-49, §4(a), Nov. 15, 1995, 109 Stat. 434.)

AMENDMENTS

1995—Subsec. (a). Pub. L. 104-49 added par. (8) and concluding provisions.

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-49, §4(c), Nov. 15, 1995, 109 Stat. 434, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1831 of this title] shall take effect upon the expiration of 90 days after the date final regulations are issued by the Secretary of Labor to implement such amendments." [Final regulations implementing Pub. L. 104-49 were signed May 13, 1996, published May 16, 1996, 61 F.R. 24858, and effective the same day.]

§ 1822. Wages, supplies, and other working arrangements

(a) Payment of wages

Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall pay the wages owed to such worker when due.

(b) Purchase of goods or services by worker

No farm labor contractor, agricultural employer, or agricultural association shall require any migrant agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) Violation of terms of working arrangement

No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any migrant agricultural worker.

(Pub. L. 97-470, title II, §202, Jan. 14, 1983, 96 Stat. 2591.)

§ 1823. Safety and health of housing

(a) Compliance with substantive Federal and State safety and health standards

Except as provided in subsection (c) of this section, each person who owns or controls a facility or real property which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing.

(b) Certification that applicable safety and health standards met; posting of certificate of occupancy; retention of certificate and availability for inspection and review; occupancy prior to inspection

(1) Except as provided in subsection (c) of this section and paragraph (2) of this subsection, no facility or real property may be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards. No person who owns or controls any such facility or property shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. The receipt and posting of a certificate of occupancy does not relieve any

person of responsibilities under subsection (a) of this section. Each such person shall retain the original certification for three years and shall make it available for inspection and review in accordance with section 1862 of this title.

(2) Notwithstanding paragraph (1) of this subsection, if a request for the inspection of a facility or real property is made to the appropriate State or local agency at least forty-five days prior to the date on which it is occupied by migrant agricultural workers and such agency has not conducted an inspection by such date, the facility or property may be so occupied.

(c) Applicability to providers of housing on a commercial basis to the general public

This section does not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

(Pub. L. 97-470, title II, §203, Jan. 14, 1983, 96 Stat. 2591.)

SUBCHAPTER III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

§ 1831. Information and recordkeeping requirements

(a) Written disclosure requirements imposed upon recruiters

(1) Each farm labor contractor, agricultural employer, and agricultural association which recruits any seasonal agricultural worker (other than day-haul workers described in section 1802(10)(A)(ii) of this title) shall ascertain and, upon request, disclose in writing the following information when an offer of employment is made to such worker:

- (A) the place of employment;
- (B) the wage rates to be paid;
- (C) the crops and kinds of activities on which the worker may be employed;
- (D) the period of employment;
- (E) the transportation and any other employee benefit to be provided, if any, and any costs to be charged for each of them;
- (F) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment;
- (G) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers; and

(H) whether State workers' compensation insurance is provided, and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

Compliance with the disclosure requirement of subparagraph (H) may be met if such worker is given, upon request, a photocopy of any notice regarding workers' compensation insurance required by law of the State in which such worker is employed.

(2) Each farm labor contractor, agricultural employer, and agricultural association which recruits seasonal agricultural workers through use of a day-haul operation described in section 1802(10)(A)(ii) of this title shall ascertain and disclose in writing to the worker at the place of recruitment the information described in paragraph (1).

(b) Posting requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this chapter, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a) of this section. Such employer shall provide, upon request, a written statement of the information described in subsection (a) of this section.

(c) Recordkeeping and information requirements imposed upon employers

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

- (A) the basis on which wages are paid;
- (B) the number of piecework units earned, if paid on a piecework basis;
- (C) the number of hours worked;
- (D) the total pay period earnings;
- (E) the specific sums withheld and the purpose of each sum withheld; and
- (F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(d) Furnishing of records by farm labor contractor; maintenance of records by recipient

(1)¹ Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished seasonal agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (c)(1) of this section. The recipient of these records shall keep them for a period of three years from the end of the period of employment.

(e) Prohibition on knowingly providing false or misleading information to workers

No farm labor contractor, agricultural employer, or agricultural association shall know-

ingly provide false or misleading information to any seasonal agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), or (c) of this section.

(f) Form and language requirements

The information required to be disclosed by subsections (a) and (b) of this section to seasonal agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

(Pub. L. 97-470, title III, §301, Jan. 14, 1983, 96 Stat. 2592; Pub. L. 104-49, §4(b), Nov. 15, 1995, 109 Stat. 434.)

AMENDMENTS

1995—Subsec. (a)(1). Pub. L. 104-49 added subpar. (H) and concluding provisions.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-49 effective upon expiration of 90 days after the date final regulations are issued by Secretary of Labor to implement such amendment, see section 4(c) of Pub. L. 104-49, set out as a note under section 1821 of this title.

§ 1832. Wages, supplies, and other working arrangements

(a) Payment of wages

Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall pay the wages owed to such worker when due.

(b) Purchase of goods or services by worker

No farm labor contractor, agricultural employer, or agricultural association shall require any seasonal agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) Violation of terms of working arrangement

No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any seasonal agricultural worker.

(Pub. L. 97-470, title III, §302, Jan. 14, 1983, 96 Stat. 2593.)

SUBCHAPTER IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

§ 1841. Motor vehicle safety

(a) Mode of transportation subject to coverage

(1) Except as provided in paragraph (2), this section applies to the transportation of any migrant or seasonal agricultural worker.

(2) This section does not apply to the transportation of any migrant or seasonal agricultural

¹ So in original. No par. (2) has been enacted.

worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

(b) Applicability of standards, licensing, and insurance requirements; promulgation of regulations for standards; criteria, etc., for regulations; amount of insurance required

(1) When using, or causing to be used, any vehicle for providing transportation to which this section applies, each agricultural employer, agricultural association, and farm labor contractor shall—

(A) ensure that such vehicle conforms to the standards prescribed by the Secretary under paragraph (2) of this subsection and other applicable Federal and State safety standards,

(B) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle, and

(C) have an insurance policy or a liability bond that is in effect which insures the agricultural employer, the agricultural association, or the farm labor contractor against liability for damage to persons or property arising from the ownership, operation, or the causing to be operated, of any vehicle used to transport any migrant or seasonal agricultural worker.

(2)(A) For purposes of paragraph (1)(A), the Secretary shall prescribe such regulations as may be necessary to protect the health and safety of migrant and seasonal agricultural workers.

(B) To the extent consistent with the protection of the health and safety of migrant and seasonal agricultural workers, the Secretary shall, in promulgating regulations under subparagraph (A), consider, among other factors—

(i) the type of vehicle used,

(ii) the passenger capacity of the vehicle,

(iii) the distance which such workers will be carried in the vehicle,

(iv) the type of roads and highways on which such workers will be carried in the vehicle,

(v) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

(C) Standards prescribed by the Secretary under subparagraph (A) shall be in addition to, and shall not supersede or modify, any standard under part B of subtitle IV of title 49, or regulations issued thereunder, which is independently applicable to transportation to which this section applies. A violation of any such standard shall also constitute a violation under this chapter.

(D) In the event that the Secretary fails for any reason to prescribe standards under subparagraph (A) by the effective date of this chapter, the standards prescribed under section 31502 of title 49, relating to the transportation of migrant workers, shall, for purposes of paragraph (1)(A), be deemed to be the standards prescribed by the Secretary under this paragraph, and shall, as appropriate and reasonable in the circumstances, apply (i) without regard to the mileage and boundary line limitations contained

in such section, and (ii) until superseded by standards actually prescribed by the Secretary in accordance with this paragraph.

(3) The level of insurance required under paragraph (1)(C) shall be determined by the Secretary considering at least the factors set forth in paragraph (2)(B) and similar farmworker transportation requirements under State law.

(c) Adjustments of insurance requirements in the event of workers' compensation coverage

If an agricultural employer, agricultural association, or farm labor contractor is the employer of any migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the requirements of subsection (b)(1)(C) of this section relating to having an insurance policy or liability bond apply:

(1) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(2) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(d) Time for promulgation of regulations for standards implementing requirements; revision of standards

The Secretary shall, by regulations promulgated in accordance with section 1861 of this title not later than the effective date of this chapter, prescribe the standards required for the purposes of implementing this section. Any subsequent revision of such standards shall also be accomplished by regulation promulgated in accordance with such section.

(Pub. L. 97-470, title IV, §401, Jan. 14, 1983, 96 Stat. 2594; Pub. L. 104-49, §5(a), Nov. 15, 1995, 109 Stat. 434; Pub. L. 104-88, title III, §333, Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (b)(2)(D) and (d), is the effective date of Pub. L. 97-470, which is ninety days from the date of enactment of Pub. L. 97-470, which was approved Jan. 14, 1983.

CODIFICATION

In subsec. (b)(2)(D), "section 31502 of title 49" substituted for "section 3102 of title 49" on authority of Pub. L. 103-272, §§1(c), (e), 6(b), July 5, 1994, 108 Stat. 745, 862, 1029, 1378. Previously, "section 3102 of title 49" substituted for "section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a))" on authority of Pub. L. 97-449, §6(b), Jan. 12, 1983, 96 Stat. 2443, the first section of which enacted subtitle I (§101 et seq.) and chapter 31 (§3101 et seq.) of subtitle II of Title 49, Transportation.

AMENDMENTS

1995—Subsec. (b)(2)(C). Pub. L. 104-88 substituted "part B of subtitle IV of title 49" for "part II of the Interstate Commerce Act, or any successor provision of subtitle IV of title 49".

Subsec. (b)(3). Pub. L. 104-49 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "The

level of the insurance required by paragraph (1)(C) shall be at least the amount currently required for common carriers of passengers under part II of the Interstate Commerce Act, and any successor provision of subtitle IV of title 49, and regulations prescribed thereunder.”

EFFECTIVE DATE OF 1995 AMENDMENTS

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Pub. L. 104-49, §5(c), Nov. 15, 1995, 109 Stat. 435, provided that: “The amendment made by subsection (a) [amending this section] takes effect upon the expiration of 180 days after the date of enactment of this Act [Nov. 15, 1995] or upon the issuance of final regulations under subsection (b) [set out below], whichever occurs first.”

REGULATIONS

Pub. L. 104-49, §5(b), Nov. 15, 1995, 109 Stat. 435, provided that: “Within 180 days of the date of the enactment of this Act [Nov. 15, 1995], the Secretary of Labor shall promulgate regulations establishing insurance levels under section 401(b)(3) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)(3)) as amended by subsection (a).” [Final regulations implementing Pub. L. 104-49 were signed May 13, 1996, published May 16, 1996, 61 F.R. 24858, and effective the same day.]

§ 1842. Confirmation of registration

No person shall utilize the services of any farm labor contractor to supply any migrant or seasonal agricultural worker unless the person first takes reasonable steps to determine that the farm labor contractor possesses a certificate of registration which is valid and which authorizes the activity for which the contractor is utilized. In making that determination, the person may rely upon either possession of a certificate of registration, or confirmation of such registration by the Department of Labor. The Secretary shall maintain a central public registry of all persons issued a certificate of registration.

(Pub. L. 97-470, title IV, §402, Jan. 14, 1983, 96 Stat. 2595.)

§ 1843. Information on employment conditions

Each farm labor contractor, without regard to any other provisions of this chapter, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 1821(b) and 1831(b) of this title.

(Pub. L. 97-470, title IV, §403, Jan. 14, 1983, 96 Stat. 2595.)

§ 1844. Compliance with written agreements

(a) Applicability to contracting activity or worker protection

No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under this chapter.

(b) Statutory liability

Written agreements under this section do not relieve a person of any responsibility that such person would otherwise have under this chapter.

(Pub. L. 97-470, title IV, §404, Jan. 14, 1983, 96 Stat. 2596.)

SUBCHAPTER V—GENERAL PROVISIONS

PART A—ENFORCEMENT PROVISIONS

§ 1851. Criminal sanctions

(a) Violations of chapter or regulations

Any person who willfully and knowingly violates this chapter or any regulation under this chapter shall be fined not more than \$1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this chapter or any regulation under this chapter, the defendant shall be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

(b) Violations of section 1324a(a) of title 8

If a farm labor contractor who commits a violation of paragraph (1) or (2) of section 1324a(a) of title 8 has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or is a farm labor contractor whose certificate has been suspended or revoked, the contractor shall, upon conviction, be fined not more than \$10,000 or sentenced to prison for a term not to exceed three years, or both.

(Pub. L. 97-470, title V, §501, Jan. 14, 1983, 96 Stat. 2596; Pub. L. 99-603, title I, §101(b)(1)(D), Nov. 6, 1986, 100 Stat. 3372.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99-603 substituted “paragraph (1) or (2) of section 1324a(a) of title 8” for “section 1816 of this title”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-603 applicable to employment, recruitment, referral, or utilization of services of an individual occurring on or after first day of seventh month beginning after Nov. 6, 1986, see section 101(b)(2) of Pub. L. 99-603, as amended, set out as a note under section 1802 of this title.

§ 1852. Judicial enforcement

(a) Injunctive relief

The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this chapter, or any regulation under this chapter, has been violated.

(b) Control of civil litigation

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter, but all such litigation shall be subject to the direction and control of the Attorney General.

(Pub. L. 97-470, title V, §502, Jan. 14, 1983, 96 Stat. 2596.)

§ 1853. Administrative sanctions

(a) Civil money penalties for violations; criteria for assessment

(1) Subject to paragraph (2), any person who commits a violation of this chapter or any regu-

lation under this chapter, may be assessed a civil money penalty of not more than \$1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this chapter and with comparable requirements of the Farm Labor Contractor Registration Act of 1963 [7 U.S.C. 2041 et seq.], and with regulations promulgated under this chapter and such Act, and (B) the gravity of the violation.

(b) Administrative review

(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c) of this section.

(c) Judicial review

Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28.

(d) Failure to pay assessment; maintenance of action

If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(e) Payment of penalties into Treasury of United States

All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(Pub. L. 97-470, title V, § 503, Jan. 14, 1983, 96 Stat. 2596.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in subsec. (a)(2), is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§ 2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, § 523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

§ 1854. Private right of action

(a) Maintenance of civil action in district court by aggrieved person

Any person aggrieved by a violation of this chapter or any regulation under this chapter by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Appointment of attorney and commencement of action

Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

(c) Award of damages or other equitable relief; amount; criteria; appeal

(1) If the court finds that the respondent has intentionally violated any provision of this chapter or any regulation under this chapter, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to \$500 per plaintiff per violation, or other equitable relief, except that (A) multiple infractions of a single provision of this chapter or of regulations under this chapter shall constitute only one violation for purposes of determining the amount of statutory damages due a plaintiff; and (B) if such complaint is certified as a class action, the court shall award no more than the lesser of up to \$500 per plaintiff per violation, or up to \$500,000 or other equitable relief.

(2) In determining the amount of damages to be awarded under paragraph (1), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(3) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28.

(d) Workers' compensation benefits; exclusive remedy

(1) Notwithstanding any other provision of this chapter, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this chapter in the case of bodily injury or death in accordance with such State's workers' compensation law.

(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of this section of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) of this section for statutory damages or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect (A) a recovery under a State workers' compensation law or (B) rights conferred under a State workers' compensation law.

(e) Expansion of statutory damages

If the court finds in an action which is brought by or for a worker under subsection (a) of this section in which a claim for actual damages is precluded because the worker's injury is covered by a State workers' compensation law as provided by subsection (d) of this section that—

(1)(A) the defendant in the action violated section 1841(b) of this title by knowingly requiring or permitting a driver to drive a vehicle for the transportation of migrant or seasonal agricultural workers while under the influence of alcohol or a controlled substance (as defined in section 802 of title 21) and the defendant had actual knowledge of the driver's condition, and

(B) such violation resulted in injury to or death of the migrant or seasonal worker by or for whom the action was brought and such injury or death arose out of and in the course of employment as determined under the State workers' compensation law,

(2)(A) the defendant violated a safety standard prescribed by the Secretary under section 1841(b) of this title which the defendant was determined in a previous judicial or administrative proceeding to have violated, and

(B) such safety violation resulted in an injury or death described in paragraph (1)(B),

(3)(A)(i) the defendant willfully disabled or removed a safety device prescribed by the Secretary under section 1841(b) of this title, or

(ii) the defendant in conscious disregard of the requirements of section 1841(b) of this title failed to provide a safety device required under such section, and

(B) such disablement, removal, or failure to provide a safety device resulted in an injury or death described in paragraph (1)(B), or

(4)(A) the defendant violated a safety standard prescribed by the Secretary under section 1841(b) of this title,

(B) such safety violation resulted in an injury or death described in paragraph (1)(B), and

(C) the defendant at the time of the violation of section 1841(b) of this title also was—

(i) an unregistered farm labor contractor in violation of section 1811(a) of this title, or

(ii) a person who utilized the services of a farm labor contractor of the type specified in clause (i) without taking reasonable steps to determine that the farm labor contractor possessed a valid certificate of registration authorizing the performance of the farm labor contracting activities which the contractor was requested or permitted to perform with the knowledge of such person,

the court shall award not more than \$10,000 per plaintiff per violation with respect to whom the court made the finding described in paragraph (1), (2), (3), or (4), except that multiple infractions of a single provision of this chapter shall constitute only one violation for purposes of determining the amount of statutory damages due to a plaintiff under this subsection and in the case of a class action, the court shall award not more than the lesser of up to \$10,000 per plaintiff or up to \$500,000 for all plaintiffs in such class action.

(f) Tolling of statute of limitations

If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of a migrant or seasonal agricultural worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (a) of this section shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for other actual damages, statutory damages, or equitable relief arising out of the same transaction or occurrence as the injury or death of the migrant or seasonal agricultural worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

(Pub. L. 97-470, title V, § 504, Jan. 14, 1983, 96 Stat. 2597; Pub. L. 102-392, title III, § 325(a), Oct. 6, 1992, 106 Stat. 1728; Pub. L. 104-49, §§ 1(a)(2), 2(a), 3, Nov. 15, 1995, 109 Stat. 432, 433.)

AMENDMENTS

1995—Subsec. (d). Pub. L. 104-49, § 1(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

“(d)(1) Notwithstanding any other provision of this chapter, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this chapter in the case of bodily injury or death.

“(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of this section of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) of this section for statutory damages or an injunction.”

Subsec. (e). Pub. L. 104-49, § 2(a), added subsec. (e).

Subsec. (f). Pub. L. 104-49, § 3, added subsec. (f).

1992—Subsec. (d). Pub. L. 102-392 added subsec. (d).

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-49, § 1(b), Nov. 15, 1995, 109 Stat. 432, provided that: “The amendment made by subsection (a)(2) [amending this section] shall apply to all cases in which a final judgment has not been entered.”

Pub. L. 104-49, § 2(b), Nov. 15, 1995, 109 Stat. 433, provided that: “The amendment made by subsection (a) [amending this section] shall apply to all cases in which a final judgment has not been entered.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-392, title III, § 325(c), Oct. 6, 1992, 106 Stat. 1728, provided that the amendment of this section by section 325(a) of Pub. L. 102-392 would apply to actions commenced after Oct. 6, 1992, but not after the expiration of 9 months after such date, with waiver and extension provisions for certain actions, prior to repeal by Pub. L. 104-49, § 1(a)(1), Nov. 15, 1995, 109 Stat. 432.

§ 1855. Discrimination prohibited**(a) Prohibited activities**

No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this chapter, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this chapter.

(b) Proceedings for redress of violations

A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) of this section and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

(Pub. L. 97-470, title V, § 505, Jan. 14, 1983, 96 Stat. 2598.)

§ 1856. Waiver of rights

Agreements by employees purporting to waive or to modify their rights under this chapter shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this chapter.

(Pub. L. 97-470, title V, § 506, Jan. 14, 1983, 96 Stat. 2598.)

PART B—ADMINISTRATIVE PROVISIONS**§ 1861. Rules and regulations**

The Secretary may issue such rules and regulations as are necessary to carry out this chapter, consistent with the requirements of chapter 5 of title 5.

(Pub. L. 97-470, title V, § 511, Jan. 14, 1983, 96 Stat. 2598.)

§ 1862. Authority to obtain information**(a) Investigation and inspection authority concerning places, records, etc.**

To carry out this chapter the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate, and in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this chapter, or regulations prescribed under this chapter.

(b) Attendance and testimony of witnesses, and production of evidence; subpoena authority

The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this chapter, the authority contained in sections 49 and 50 of title 15, relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) Prohibited activities

It shall be a violation of this chapter for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to this chapter during the performance of such duties.

(Pub. L. 97-470, title V, § 512, Jan. 14, 1983, 96 Stat. 2598.)

§ 1863. Agreements with Federal and State agencies**(a) Scope of agreements**

The Secretary may enter into agreements with Federal and State agencies (1) to use their facilities and services, (2) to delegate, subject to subsection (b) of this section, to Federal and State agencies such authority, other than rule-making, as may be useful in carrying out this chapter, and (3) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under clause (1) or (2) of this section.

(b) Delegation of authority pursuant to written State plan

Any delegation to a State agency pursuant to subsection (a)(2) of this section shall be made only pursuant to a written State plan which—

(1) shall include a description of the functions to be performed, the methods of performing such functions, and the resources to be devoted to the performance of such functions; and

(2) provides assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (1) and that the State agency's performance of functions so delegated will be at least comparable to the performance of such functions by the Department of Labor.

(Pub. L. 97-470, title V, § 513, Jan. 14, 1983, 96 Stat. 2599.)

PART C—MISCELLANEOUS PROVISIONS**§ 1871. State laws and regulations**

This chapter is intended to supplement State law, and compliance with this chapter shall not excuse any person from compliance with appropriate State law and regulation.

(Pub. L. 97-470, title V, §521, Jan. 14, 1983, 96 Stat. 2599.)

§ 1872. Transition provision

The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this chapter, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this chapter.

(Pub. L. 97-470, title V, §522, Jan. 14, 1983, 96 Stat. 2599.)

REFERENCES IN TEXT

The Farm Labor Contractor Registration Act of 1963, referred to in text, is Pub. L. 88-582, Sept. 7, 1964, 78 Stat. 920, as amended, which was classified generally to chapter 52 (§2041 et seq.) of Title 7, Agriculture, and was repealed by Pub. L. 97-470, title V, §523, Jan. 14, 1983, 96 Stat. 2600. See section 1801 et seq. of this title.

CHAPTER 21—HELEN KELLER NATIONAL CENTER FOR YOUTHS AND ADULTS WHO ARE DEAF-BLIND

Sec.	
1901.	Congressional findings.
1902.	Continued operation of Center.
1903.	Audit; monitoring and evaluation.
1904.	Authorization of appropriations.
1905.	Definitions.
1906.	Construction; effect on agreements.
1907.	Helen Keller National Center Federal Endowment Fund.
1908.	Registry.

§ 1901. Congressional findings

The Congress finds that—

(1) deaf-blindness is among the most severe of all forms of disabilities, and there is a great and continuing need for services and training to help individuals who are deaf-blind attain the highest possible level of development;

(2) due to the rubella epidemic of the 1960's, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing, and recent advances in medical technology that have sustained the lives of many severely disabled individuals, including individuals who are deaf-blind, who might not otherwise have survived, the need for services for individuals who are deaf-blind is even more pressing now than in the past;

(3) helping individuals who are deaf-blind to become self-sufficient, independent, and employable by providing the services and training necessary to accomplish that end will benefit the Nation, both economically and socially;

(4) the Helen Keller National Center for Youths and Adults who are Deaf-Blind is a vital national resource for meeting the needs of individuals who are deaf-blind and no State currently has the facilities or personnel to meet such needs;

(5) the Federal Government has made a substantial investment in capital, equipment, and operating funds for such Center since it was established; and

(6) it is in the national interest to continue to provide support for the Center, and it is a proper function of the Federal Government to be the primary source of such support.

(Pub. L. 98-221, title II, §202, Feb. 22, 1984, 98 Stat. 32; Pub. L. 102-569, title IX, §§901, 908(a), (c)(1), Oct. 29, 1992, 106 Stat. 4482, 4485, 4486.)

PRIOR PROVISIONS

Provisions for the establishment, operation, and funding of the Helen Keller National Center for Deaf-Blind Youths and Adults, similar to those comprising this chapter, were contained in section 777c of this title prior to the repeal of that section and the enactment of this chapter by Pub. L. 98-221. Prior thereto provisions similar to those comprising this chapter and authorizing appropriations for fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, Sept. 30, 1977, and Sept. 30, 1978, for the establishment of the Helen Keller National Center for Deaf-Blind Youths and Adults were contained in former section 305 of Pub. L. 93-112, title III, Sept. 26, 1973, 87 Stat. 383, as amended by Pub. L. 93-516, title I, §107, Dec. 7, 1974, 88 Stat. 1619; Pub. L. 93-651, title I, §107, Nov. 21, 1974, 89 Stat. 2-4; Pub. L. 94-230, §§7, 11(b)(10), Mar. 15, 1976, 90 Stat. 212, 213; Pub. L. 94-288, §§1, 2, May 21, 1976, 90 Stat. 520, which was classified to section 775 of this title. Section 109(1) of Pub. L. 95-602 redesignated former section 305 as section 313 of Pub. L. 93-112. Section 313 of Pub. L. 93-112, as amended generally by section 116(2) of Pub. L. 95-602, was classified to section 777c of this title.

Prior similar provisions were also contained in former section 42a of this title.

AMENDMENTS

1992—Par. (1). Pub. L. 102-569, §908(a), substituted “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (2). Pub. L. 102-569, §§901(1), 908(a), inserted “, the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing,” after “1960's” and substituted “individuals who are deaf-blind” for “deaf-blind individuals” in two places.

Par. (3). Pub. L. 102-569, §908(a), substituted “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (4). Pub. L. 102-569, §908(a), (c)(1), substituted “Youths and Adults who are Deaf-Blind” for “Deaf-Blind Youths and Adults” and “individuals who are deaf-blind” for “deaf-blind individuals”.

Par. (5). Pub. L. 102-569, §901(2), substituted “made a substantial investment” for “invested approximately \$10,000,000”.

SHORT TITLE

Pub. L. 98-221, title II, §201, Feb. 22, 1984, 98 Stat. 32, provided that: “This title [enacting this chapter, amending section 777 of this title, and repealing section 777c of this title] may be cited as the ‘Helen Keller National Center Act’.”

§ 1902. Continued operation of Center

(a) Administration by Secretary of Education

The Secretary of Education shall continue to administer and support the Helen Keller National Center for Youths and Adults who are Deaf-Blind in the same manner as such Center was administered prior to February 22, 1984, to the extent such manner of administration is not inconsistent with any purpose described in subsection (b) of this section or any other requirement of this chapter.